

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-Publication of Notice Statement)

Amend Section 362,
Title 14, California Code of Regulations
Re: Nelson Bighorn Sheep

I. Date of Statement: January 14, 2002

II. Dates and Locations of Scheduled Hearings:

- (a) Notice Hearing: Date: February 9, 2002
 Location: Sacramento, California
- (b) Discussion Hearing: Date: March 8, 2002
 Location: San Diego, California
- (c) Discussion Hearing: Date: April 5, 2002
 Location: Long Beach, California
- (d) Adoption Hearing: Date: April 25, 2002
 Location: Sacramento, California

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

1. Number of Tags

Existing regulations provide for limited hunting of Nelson bighorn rams in specified areas of the State. The proposed change is intended to adjust the number of tags based on annual bighorn sheep population surveys conducted by the Department of Fish and Game.

Section 4902 of the Fish and Game Code specifies that the Commission may allow the take of no more than 15 percent of the mature Nelson bighorn rams estimated in the hunt areas in a single year, based on annual population surveys conducted by the Department. To comply with Section 4902 and meet the objectives of

the approved management plans for each unit, the proposed distribution of tags is as follows:

HUNT ZONE	2001 Tag allocation	2002 Tag allocation
Zone 1 - Marble/Clipper Mountains	2	3
Zone 2 - Kelso Peak/Old Dad Mountains	4	3
Zone 3 - Clark/Kingston Mountain Ranges	2	2
Zone 4 - Orocopia Mountains	1	1
Zone 5 - San Gorgonio Wilderness	2	2
Zone 6 - Sheep Hole Mountains	1	1
Open Zone Fund-Raising Tag	2	2
TOTAL	14	14

The proposed harvest is biologically conservative by design to ensure that not more than 15 percent of the mature rams in any zone are taken. The Department's research indicates that aerial surveys do not detect all mature rams present. Results of others surveys and monitoring efforts indicate that the ram populations are higher than the number observed during aerial surveys.

2. Tag Application and Distribution Procedures, Tagging and Reporting Requirements

Existing regulations specify bighorn sheep tag application and distribution procedures and indicate tagging, marking and reporting requirements. The proposed change establishes new Subsection 708(b) and removes tag application and distribution procedures and selected tagging, marking and reporting requirements from existing regulations by placing them in that new Subsection.

Currently, proposals are under consideration to implement an Automated License Data System (ALDS), and a possible change in tag distribution methods from the current draw-by-choice method to a preference-based point system. If implementation of an ALDS or preference-based point system occurs, it will be necessary to adapt administrative and procedural regulations regarding bighorn sheep tags immediately. The proposed change will allow modifications to the administrative procedures to occur outside of the normal Mammal regulation setting process and time lines.

The current Mammal regulation setting process is structured such that time lines would not be adaptable to these needs. The proposed change deletes Section 362(e) and portions of (f) (1, 2, 3, 7, 9, 11, 12) and moves their contents to Subsection 708(b).

Existing regulations specify a \$6.50 nonrefundable application fee and a \$261.50 resident license tag fee for hunting Nelson bighorn sheep. Section 713 of the Fish and Game Code requires that these fees be adjusted annually according to the cost of living index. This proposal increases the drawing application fee to \$6.75 and the resident bighorn ram tag fee to \$270.25.

3. Editorial Changes

Minor editorial changes are also proposed to improve the clarity and consistency of the regulations. Specifically, these changes are necessary to reflect changes in tag allocations, and update references to the current calendar year.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 203, 220, 1050, and 4902, Fish and Game Code.

Reference: Sections 200, 202, 203, 203.1, 207, 1050, 3950, and 4902, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change: None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Draft Environmental Document Regarding Bighorn Sheep Hunting.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

Although the proposed changes are relatively simple and few, the Department held four public meetings regarding the proposed changes as follows:

November 7, 2001 in Fresno
November 13, 2001 in San Diego
November 29, 2001 in Monterey
December 13, 2001 in Sacramento

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

1. Number of Tags

An alternative was considered which involved issuing fewer tags to take Nelson bighorn rams. The current statutory restriction allows a quota of no more than 15 percent of the mature rams observed in the designated hunt zones. This is a very conservative harvest ceiling. This alternative was rejected because the demand for bighorn sheep hunting is high, and the proposed quota changes more closely meet program objectives.

An alternative which involved translocating mature rams in lieu of removing them by hunting was considered. Since the Department currently has an active and ongoing bighorn sheep translocation program, relocating additional rams would not improve the program. This alternative would not address the Legislature's policy to provide diversified uses of wildlife, including hunting. Additionally, this alternative would not achieve the project objective of providing public hunting opportunities.

A no project or no hunting alternative also was considered. This alternative would continue the translocation of bighorn sheep to available historical habitat, just as would occur under the proposed project. Under this alternative, it is possible that support for bighorn sheep management programs by interested conservation groups and hunters would decline. This decline could result in reducing the value of bighorn sheep to a segment of the public by unnecessarily preventing the hunting of a limited number of mature rams. In addition, it would not address the Legislature's policy to provide diversified uses of wildlife, including hunting. Therefore, this alternative would not achieve the project objectives.

2. Tag Application and Distribution Procedures, Tagging and Reporting Requirements

No alternatives were identified to establishing Section 708(b) specifying bighorn sheep tag application and distribution procedures and tagging and reporting requirements. No other alternatives would simplify existing regulations and place the tag application and distribution procedures and conditions for all big game species in one Section.

No alternatives to adjusting application and tag fees were identified because the Fish and Game Code requires adjustment of such fees according to change in the cost of living index.

3. Editorial Changes

No alternatives were identified. These changes are necessary to improve clarity and consistency of the regulations.

(b) No Change Alternative:

1. Number of Tags

The no-change alternative was considered and found inadequate because it would not attain the project objective. Based on the intent of Section 4902 of the Fish and Game Code, and results of population surveys, it is necessary to adjust the number of tags available in all hunting zones as the status of the sheep populations changes.

2. Tag Application and Distribution Procedures, Tagging and Reporting Requirements

The no change alternative regarding establishing Section 708(b) specifying bighorn sheep tag application and distribution procedures and reporting requirements was considered and rejected. The no change alternative would not allow the flexibility to modify administrative and procedural regulation changes that would be necessary to adapt to implementation of ALDS or a change in big game draw methods and distribution procedures.

The no-change alternative for adjusting the price of bighorn sheep hunting license tags was considered and rejected. Statutory language provides for the bighorn sheep tag and application fees to increase according to a cost of living index. The no-change alternative would be contrary to the intent of this statute.

3. Editorial Changes

The no-change alternative for the proposed administrative changes was considered and rejected. This alternative would result in regulations which would not reflect the necessary changes.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

The statement described pursuant to Section 11346.14(b), Government Code, may be modified by information received at public meetings scheduled for March 8, 2002, in San Diego, California, and April 5, 2002, in Long Beach, California.

V. Mitigation Measures Required by Regulatory Action:

Attached are copies of the Draft Environmental Document Regarding Bighorn Sheep Hunting.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businessmen to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed action adjusts tag quotas and moves specific tag procedures and requirements to another Section. Given the few number of bighorn sheep tags that are available each year, this proposal is economically neutral to business.

(b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.

(c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed to Any Local Agency or School District that is Required to be Reimbursed under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

INFORMATIVE DIGEST (Policy Statement Overview)

Existing regulations provide for limited hunting of Nelson bighorn rams in six hunt zones. The proposed change adjusts the number of tags based on annual bighorn sheep population surveys conducted by the Department. The following proposed number of tags was determined using the procedure described in Fish and Game Code Section 4902:

HUNT ZONE	NUMBER OF TAGS
Zone 1 - Marble Mountains	3
Zone 2 - Kelso Peak/Old Dad Mountains	3
Zone 3 - Clark/Kingston Mountain Ranges	2
Zone 4 - Orocopia Mountains	1
Zone 5 - San Gorgonio Wilderness	2
Zone 6 - Sheep Hole Mountains	1
Open Zone Fund-Raising Tags	2
TOTAL	14

The number of tags allocated for each of the six hunt zones is based on the results of the Department's 2001 estimate of the bighorn sheep population in each zone. Tags are proposed to be allocated to allow the take of less than 15 percent of the mature rams estimated in each zone.

Existing regulations specify bighorn sheep tag application and distribution procedures and tagging and reporting requirements. The proposed change establishes new Subsection 708(b) and removes tag application and distribution procedures and tagging and reporting requirements from existing regulations by placing them in that new Subsection.

Existing regulations require a \$6.50 nonrefundable application fee and a \$261.50 resident license tag fee for hunting Nelson bighorn sheep. The proposed change increases the application fee to \$6.75 and the resident license tag fee to \$270.25, to reflect the cost of living increase as specified in Section 713 of the Fish and Game Code.

Editorial changes are also proposed to improve the clarity and consistency of the regulations.